

2020 Jul-07 PM 02:19  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA

Ameer L. Smith # 207810

Plaintiff

(Write your full name. No more than one plaintiff may be named in a complaint.)

-v-

Andre Phillips

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all of the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here. Your complaint may be brought in this court only if one or more of the named defendants is located within this district.)

U.S. DISTRICT COURT  
N.D. OF ALABAMACase No. 2:20-cv-958-CLM-JHE  
(to be filled in by the Clerk's Office)COMPLAINT FOR VIOLATION OF CIVIL RIGHTS  
(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee of \$400.00 or an Application to Proceed *In Forma Pauperis*.

Mail the original complaint and the filing fee of \$400.00 or an Application to Proceed *In Forma Pauperis* to the Clerk of the United States District Court for the Northern District of Alabama, Room 140, Hugo L. Black U.S. Courthouse, 1729 5th Avenue North, Birmingham, Alabama 35203-2195.

**I. The Parties to this Complaint****A. The Plaintiff**

Provide the information below for the plaintiff named in the complaint.

Name  
All other names by which  
you have been known: Ameer L. Smith  
ID Number ATS # 207810 Bed # W-36  
Current Institution DONALDSON CORRECTIONAL FACILITY  
Address 100 Warrior Lane  
Bessemer AL. 35023  
City State Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed

Defendant No. 1

Name Andre Phillips  
Job or Title (*if known*) COI  
Shield Number \_\_\_\_\_  
Employer Alabama Department of Corrections  
Address DONALDSON CORRECTIONAL FACILITY  
Bessemer AL. 35023  
City State Zip Code  
☒ Individual Capacity ☐ Official Capacity

Defendant No. 2

Name \_\_\_\_\_  
Job or Title (*if known*) \_\_\_\_\_  
Shield Number \_\_\_\_\_  
Employer \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
City State Zip Code  
☐ Individual Capacity ☐ Official Capacity

Defendant No. 3

Name \_\_\_\_\_  
 Job or Title (if known) \_\_\_\_\_  
 Shield Number \_\_\_\_\_  
 Employer \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
☐ Individual Capacity ☐ Official Capacity

Defendant No. 4

Name \_\_\_\_\_  
 Job or Title (if known) \_\_\_\_\_  
 Shield Number \_\_\_\_\_  
 Employer \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
☐ Individual Capacity ☐ Official Capacity

**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal law].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply);

- ☐ Federal officials (a *Bivens* claim)  
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities, secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

EXCESSIVE FORCE by STATE PRISON GUARD OR GUARDS  
CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT, (see) HUDSON  
VS. McMillian, 503 U.S. 1 (1992)

- C. Plaintiffs suing under *Bivens* may only recover for violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?
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- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

*USE OF FORCE IS EXCESSIVE AND VIOLATES THE EIGHTH AMENDMENT  
WHEN IT IS NOT APPLIED IN AN EFFORT TO MAINTAIN OR RESTORE  
DISCIPLINE BUT IS USED TO MALICIOUSLY AND SADISTICALLY CAUSE HARM.*

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial Detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other \_\_\_\_\_  
(explain)

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

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- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

*The Wrongdoing Took place at Donaldson Corr. Facility*

C. What date and approximate time did the events giving rise to your claim(s) occur?

on May 2nd. 2020

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See The attached Page 5+1  
Through 5+5

V. **Injuries**

If you sustained injuries related to the events alleged above, describe your injuries in detail.

My arm BING BEATING SO MANY TIMES WITH A OFFICER  
BATON, U.A.B. hospital did a EMERGENCY Surgery For  
Many Broken Bones, THAT WAS Replaced With Metal Plates.

VI. **Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Plaintiff seek's \$250,000 IN Punitive  
Damages For The UNNECESSARY AND WANTON  
INFLECTION OF Pain. AND SEEKS \$25,000 IN  
Compensatory Damages For The Defendant  
ACTING WITH Deliberate Indifference To  
The Plaintiff's Health AND Safety Causing  
Illegal Future Damages.  
And seek's \$25,000 IN emotional Damages  
AND INJURIES SUFFERED While IN Custody  
Under Illegal Physical INJURY.

Page 5 + 1

ON May 2, 2020. AT 3:50 AM, I THE PLAINTIFF WAS AT DONALDSON CORRECTIONAL FACILITY, IN ITS SEGREGATION UNIT ON D-SIDE THOSE SEGREGATION CELL'S HAS TRAY DOOR'S AND TWO MEN TO A CELL.

THE PLAINTIFF'S CELLMATE WAS WORKING INSIDE THE SEGREGATION UNIT WHEN THE PLAINTIFF CAME TO THE TRAY DOOR AND ASKED THE CELLMATE WHO WAS WORKING OUTSIDE THE CELL, TO GET THE OFFICER'S, THAT I WAS FEELING PAIN BY THE HEART. THE INMATE HAD INFORMED THE OFFICER WHO WAS WORKING INSIDE D-SIDE CUBICLE WHOM NAME OF THE OFFICER IS UNKNOWN, THAT I INMATE Amer L. Smith NEEDED MEDICAL ATTENTION, TOLD BY CELLMATE NORMAN EVINS... NO ONE CAME TO THE CELL FOR THE NEEDED MEDICAL ATTENTION TO BE PROVIDED. INMATE EVINS HAD WENT BACK TO THE CUBE TO INFORM THE UNKNOWN OFFICER FOR THE SECOND TIME OF THE EMERGENCY, NO ONE CAME TO THE CELL FOR THE NEEDED MEDICAL ATTENTION TO BE PROVIDED. AFTER ABOUT AN HOUR THE DEFENDANT, OFFICER ANDRE PHILLIPS



page 5 + 2

had come INTO The DORM at about 4:45 am, To make his last Rounds AND To Close All Tray Door's, The PLAINTIFF'S ARM had been hanging out the Tray Door For Reason's To Get The OFFICER'S ATTENTION For The Needed Medical ATTENTION To be Provided, When The DEFENDANT Got To The PLAINTIFF'S CELL D-47 I INFORMED The DEFENDANT That I Needed To be TAKEN To Medical That I Felt as IF I Was having A Stroke, OR heart ATTACK. The DEFENDANT STATED That There Was Nothing he Could Do For ME AND asked ME To REMOVE My Right ARM From The Tray Door,, I The PLAINTIFF STATED That IT Was serious AND That I'VE GOTTEN OLDER AND have BEEN having ALOT of Pain IN area's around The heart,, The DEFENDANT ~~had~~<sup>then</sup> Got out his pepper spray AND Maced ME IN The Face Twice, While I Was IN a kneeling position at My Tray Door Seeking Medical ATTENTION For A serious Medical Need, AFTER Which, The

page 5 + 3

Defendant had unreasonably disregarded an excessive risk to the Plaintiff's safety when he pulled out his officer baton and started beating my right arm while the arm was only setting on the tray door making no movements while asking for medical attention, the arm started swelling while the brutality was being done, that brutality violated prison A.D.O.C. policy, of hands off inmates, and does constitute cruel and unusual punishment of the eighth amendment of excessive force, because: not only did the defendant disregard the A.D.O.C. hands off inmates policy, this brutality violates the eighth amendment because it was not applied in a good faith effort to maintain or restore discipline, but instead was used to maliciously and sadistically to cause harm. Therefore, the defendant should be



page 5 + 4

held Responsible For unnecessary AND Wanton INFliction of pain, Where The Condition of The ARM, OR The Beating To The ARM has Resulted IN Further significant INJURY, AS NOT being useable as it ONCE Was Before The Brutality.

FACTS: AFTER The Beating To The ARM, The Defendant Walked OUT OF The Segregation UNIT AFTER About 5 MINUTES, 2 OTHER OFFICER'S Came To The CELL To Get The plaintiff AND Escorted The plaintiff To The Health care unit. The NURSE'S Seen how Bad The ARM looked AND Notified The doctor, Whom Told The Medical unit To Call The ambulance, While on The ambulance Those Medical providers Noticed AN Emergency of The plaintiff Was ON The Verge of having a heart attack. hours of Surgery at U.A.B. hospital The Surgery Resulted IN Sections of The ARM had To be Cut, SO That PARTS OF Bone's Could be Removed

page 5 + 5

And Replaced With Metal plates  
With screws And bolts holding it in  
place. AFTER which I was INformed  
That I'll NEVER be able To use my  
ARM as I ONCE Did, And THAT I  
MAY have Complications with THAT Right  
ARM For The Rest of my life.

**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

DONALDSON CORRECTIONAL FACILITY.

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do Not Know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do Not Know

If yes, which claim(s)?

EXCESSIVE FORCE IS NOT ALLOWED UNDER  
THE A.D.O.C. POLICY, HANDS OFF INMATES.

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance

- I. Where did you file the grievance?

DONALDSON CORRECTIONAL FACILITY.

2. What did you claim in your grievance?

EXCESSIVE FORCE IN VIOLATION OF THE HANDS OFF INMATE POLICY.

3. What was the result, if any?

AFTER THE GRIEVANCE WAS FILED ON JUNE 10, 2020 I'VE HEARD NOTHING BACK.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

AFTER THE GRIEVANCE WAS FILED ON JUNE 18, 2020. I'VE HEARD NOTHING BACK.

F. If you did not file a grievance:

I. If there are any reasons why you did not file a grievance, state them here:

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

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3. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

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*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

#### VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had any cases dismissed based on grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted?

☐ Yes

☒ No

If yes, state which court dismissed your case(s), when this occurred, and attach a copy of the order(s) if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_



**IX. Certification and Closing**

Under Federal Rule of Civil-Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.**

Printed Name of Plaintiff

X Amer L. Smith

Prison Identification #

X 207810

Prison Address

100 WARRIOR LaneBessemerAl.35023

City

State

Zip Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

June 17, 2020  
(Date)X Amer L. Smith

Signature of Plaintiff